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HAHN LOESER & PARKS, LLP  
TWIN OAKS ESTATE  
1225 W. MARKET STREET  
AKRON, OH 44313

EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/068,539

Applicant(s)

CALMEISE ET AL.

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. This application, filed under former 37 CFR 1.60, lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings. In unusual circumstances, the formal drawings from the abandoned parent application may be transferred by the grant of a petition under 37 CFR 1.182.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. **Claims 1-10, 14-17, 27-28, 30-36, 38-39, 42, 45-46 and 47-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Perelli et al. (US Patent 6,497,423 B1).** Perelli et al. discloses a manually propelled janitorial cart comprising a base (See Fig. 1); a pair of central wheels attached to the base (See Fig. 1); at least one outboard wheel attached to the base (See Fig. 1); a trash holding compartment (214) attached to the base and positioned above an axis extending through the pair of central wheels, the trash holding compartment having an upper top surface with a trash receiving aperture therein (See Fig. 1); a plurality of laterally spaced zone

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separation compartments attached to the base (See Fig. 1), a first zone separation compartment being a goods storage compartment (See Fig. 3) and a second zone compartment being a wet zone compartment (34), the wet zone compartment being distal from the goods storage compartment; a central compartment attached to the base and positioned above an axis extending through the pair of central wheels, the base containing a plurality of attachments for the at least one outboard wheel, the number of attachments being greater than the number of outboard wheels; and a handle (28) attached to the goods storage compartment distal the trash holding compartment (See Fig. 1), the base including a lower level tray extending outward away from the trashing holding compartment (See Fig. 1); wherein the trash holding compartment is at least partially open sided (See Fig. 2); wherein the trash holding compartment is closed sided (See Fig. 3); wherein the number of outboard compartments is one or two (See Fig. 15); wherein the central wheels have a diameter larger than the at least one outboard wheel; wherein the number of zone separation compartments is three; a plurality of tool holders formed in a top surface of at least one of the trash holding compartment and the goods storage compartment (See Fig. 1); wherein the wet zone compartment includes a wet retaining curb (44); wherein the wet zone compartment further includes a bucket retaining surface (see Fig. 1); wherein the removable front portion of the base includes a curb (See Fig. 1); wherein the enclosed storage compartment includes a pivotable lid attached to the upper top surface thereof and the trash receiving aperture being in the pivotable lid and the upper top surface; a trash bag retainer positioned adjacent the trash receiving aperture; an upper integral handle (28) and organizer surrounding the trash receiving aperture, wherein the integral handle and organizer has a plurality of tool holders formed therein; a vertically extending barrier (214) between adjacent zone separation

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compartments; wherein the trash holding compartment is closed sided, the goods storage compartment has an open framework supporting at least one shelf, and the wet zone compartment has a curb attached to the base (See Figs. 1-3); at least one storage shelf within the enclosed storage compartment (See Fig. 3); a plurality of shelf supports within the enclosed storage compartment, and at least one storage shelf positioned on a shelf support; and a trash bag support positioned within the enclosed storage compartment below the trash receiving aperture (See Fig. 3); wherein the trash bag retainer comprises a raised grip about an interior edge of the trash receiving aperture (See Fig. 4).

Regarding claims 4 and 30, Perelli et al. discloses an enclosed storage compartment attached to the base (See Fig. 3), the enclosed storage compartment having an upper top surface with a trash- receiving aperture therein and a door (188) in one side thereof.

Regarding claim 42, Perelli et al. discloses two outboard compartments positioned adjacent the central compartment (See Fig. 15), each outboard compartment being positioned above at least one outboard wheel, a front portion of the base being removably attached to a central portion of the base (See Fig. 15), the removable front portion of the base forming one of the outboard compartments.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 11-13, 18, 20-26, 29, 37, 40-41 and 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perelli et al. (US Patent 6,497,423 B1).** Perelli et al. discloses a manually propelled janitorial cart as set forth above having at least three laterally spaced zone separation compartments attached to the base, a first zone separation compartment being a goods storage compartment, a second zone separation being a trash holding compartment and a third zone separation compartment being wet zone compartment, but does not disclose the trash holding compartment being between and separating the goods storage compartment and the wet zone compartment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the trash holding compartment between the goods storage compartment and the wet zone compartment, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to allow the user pushing the cart to having easier access to the goods storage compartment while pushing the cart.

Regarding claim 43, Perelli et al. discloses one outboard compartment positioned adjacent the trash holding compartment, but does not disclose the outboard compartment being positioned above the at least one outboard wheel and having an open framework supporting at least one shelf. As set forth in the previous paragraph, it would have been obvious to a person of ordinary skill in this art to rearrange the position of the trash holding compartment and goods storage compartment.

Regarding claims 11-12 and 40-41, Perelli et al. does not disclose wherein the outboard wheels and the central wheels being positioned in a diamond and/or triangle pattern relative to the rectangular base. Since it has been held that rearranging parts of an invention involves only routine skill in the art, it would have been obvious to a person of ordinary skill in this art to arrange the wheels disclosed in Perelli et al. in either a diamond or triangle pattern relative to the rectangular base.

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Regarding claim 13, Perelli et al. does not disclose the trash holding compartment being positioned between the central wheels and at least one outboard wheel. It would have been obvious to a person of ordinary skill in this art to provide another outboard wheel under the trash holding compartment in Perelli et al. The motivation for doing so would have been to provide more support for the trash holding compartment section of the cart and prevent the cart from tipping.

Regarding claim 37, Perelli et al. does not disclose wherein the trash bag retainer further comprises an elastic cord stretched about the raised grip. Examiner takes Official Notice that trash bags themselves provide an elastic opening that is able to stretch around the trash bag retainer.

6. **Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perelli et al. (US Patent 6,497,423 B1) in view of Wilson (US Patent 2,865,647).** Perelli et al. does not disclose a side pocket attached to the base alongside the trash holding compartment. Wilson discloses a side pocket (16) attached to the base alongside the trash holding compartment. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide the cart disclosed in Perelli et al. with a side pocket alongside the trash holding compartment in view of the teaching of Wilson. The motivation for doing so would have been to allow a user to store small items, such as keys, in the side pocket when using the cart.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

J. Allen Shriver  
Examiner  
Art Unit 3618

JAS  
July 11, 2003

  
SUPERVISOR  
TECHNOLOGY CENTER 6000  
7/14/03